IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.5774 OF 2005.
IN
FIRST APPEAL NO.1483 OF 2006.

Maharashtra State Road Transport
Corproation. ... Applicant.

Versus.

Yameen Abdul Hamid Chougule & Anr. ... Respondents.

Shri G.S.Hegde for the Applicant.

Shri M.H.S.Solkar for the Respondent No.1.

CORAM : ABHAY S.OKA, J.

DATED : 26th July, 2006.

P.C.:

1. Rule. Shri Solkar waives service for Respondent No.1. For the purpose of this application, service of notice to the other Respondents is dispensed with.

Taken up for hearing forthwith.

2. The learned Advocate appearing for the Applicant pointed that in the companion claim applications, the learned Member of the Tribunal has passed different orders and has held that the Applicant is liable only to the extent of 40% and 60% liability is fastened on the owner of the other vehicle.

3. This is a case where a 20 years old woman has suffered injuries which resulted into disfigurement and decreased vision on the right eye. Various documents such as records from Hinduja Hospital, Jaslok Hospital and Sion Hospital are placed on record. There is some

dispute about the exact percentage of the disability. Considering all these peculiar facts, the Applicant will have to deposit the entire amount due and payable under the Award and the first Respondent will have to be permitted to withdraw a substantial amount.

4. Hence the Civil Application is disposed of by the following order is passed:

i) There will be interim relief in terms of prayer clause (a) subject to condition of the Applicant depositing the entire amount due and payable under the impugned Judgment and Award with the concerned Tribunal within a period of eight weeks from today.

ii) If the amount is not deposited within the stipulated time, the interim relief will stand vacated without reference to the Court.

iii) If the amount is deposited, the learned Member of the Tribunal will permit the 1st Respondent to withdraw a sum of Rs.1,50,000/- without security subject to the Respondent no.1 filing an undertaking in writing to bring back the amount with reasonable amount of interest in case the Applicant succeeds in the Appeal.

iv) The Respondent No.1 will be entitled to withdraw a further sum of Rs.1,50,000/- subject to furnishing adequate security to the satisfaction of the learned Member of the Tribunal. The learned Member will hear the Applicant before accepting the security.

v) Rest of the amount deposited by the Applicant will be invested in fixed deposit in any nationalised bank initially for a period of three years and thereafter the fixed deposit shall be renewed from year to year till disposal of the Appeal.

vi) If the sum of Rs.1,50,000/- referred to in clause No.(iv) above is not withdrawn by the 1st Respondent by furnishing adequate security within a period of six months from the date of deposit, the said amount shall be invested by the learned Member as per the aforesaid direction.

vii) There will be no order as to costs.

Judge.